

1 **UNITED STATES DISTRICT COURT**
2 **SOUTHERN DISTRICT OF TEXAS**
3 **HOUSTON DIVISION**

4 UNITED STATES OF AMERICA * 4:16-CR-00003
5 VS. *
6 OMAR FARAJ SAEED AL HARDAN * 2:03 P.M.
7 *
8 * OCTOBER 17, 2016

9 **HEARING ON RE-ARRAIGNMENT**
10 **BEFORE THE HONORABLE LYNN N. HUGHES**
11 **Volume 1 of 1 Volumes**

12 **APPEARANCES:**

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3 **INTERPRETER:**

4 Ms. Nina Midway

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9 Proceedings recorded by mechanical stenography.
10 Transcript produced by computer-assisted transcription.

1 | PROCEEDINGS

2 THE COURT: Thank you. Please be seated.

3 MR. ADLER: They just finished reading the final
4 version.

02:03:24 5 THE COURT: Mr. Imperato, somebody may need to
6 use that microphone, so bend it down a little bit. Kink
7 it up just a little. All right. That will probably do.
8 Thank you.

9 MR. IMPERATO: Thanks, Judge.

02:04:17 10 THE COURT: Mr. Imperato, are you handing out
11 copies of the background?

12 MR. IMPERATO: The factual basis to help out the
13 court reporter. I gave her a copy.

14 THE COURT: She needs all the help. What about
02:04:30 15 her mature supervisor?

16 MR. IMPERATO: You should have a copy there,
17 Judge.

18 CASE MANAGER: You should have a copy, Judge.

19 MR. IMPERATOR: Do you want a copy of the whole
02:04:45 20 plea agreement? I will send it over.

21 THE COURT: No. Just the proffer part of it.

22 MR. IMPERATO: Okay.

23 THE COURT: Well, here is an old copy.

24 MR. IMPERATO: Glenda, I have one right here.

02:04:52 25 CASE MANAGER: No. I will make copies.

1 MR. IMPERATO: Okay.

2 THE COURT: I want you to be nice to Laura, but
3 it wouldn't hurt to be nice to me say every fifth time you
4 are nice to her.

02:05:41 5 (Discussion off the record.)

6 MR. ADLER: Your Honor, Mr. Al Hardan would like
7 to use the men's room.

8 THE COURT: Certainly.

9 (Recess from 2:10 p.m. to 2:21 p.m.)

02:20:49 10 THE COURT: Counsel, let's just proceed in
11 element B --

12 MR. IMPERATO: Yes.

13 THE COURT: -- that he knew that the organization
14 had engaged or was engaging in terrorism.

02:21:20 15 MR. IMPERATO: Judge, I was going to ask you
16 about that. All that is boilerplate. I wanted to ask you
17 if I could kind of gloss over that and just say designated
18 terrorist organization and then go on to the facts.

19 THE COURT: No. That it was doing terrorism.
20 Terrorist organization sounds like it's something
21 official. And I doubt that he knew that they had been
22 registered in Code 6, Volume 12 of being evil.

23 MR. IMPERATO: Do you want me to say doing
24 terrorist activity?

02:21:51 25 THE COURT: You have it here. He knew that it

1 was engaging in terrorism. Terrorist activity is just two
2 words for terrorism.

3 MR. MCINTYRE: That's correct, Your Honor. They
4 either know it's designated or they know it is an
5 organization --

6 THE COURT: Yes, it's an or.

7 Mr. Adler, did you agree we'll take the second half of
8 the element that he knew the organization was practicing
9 terrorism?

10 MR. ADLER: As opposed to being actually a
11 designated organization, yes.

12 THE COURT: Yes. Whether they were registered
13 terrorists or not. Maybe we ought to give them little
14 identity cards.

15 Does counsel know what a light resistor is?

16 MR. ADLER: It's the opposite of a heavy
17 resistor, Judge.

18 THE COURT: Or a dark resistor.

19 Do we need all the immigration stuff?

20 MR. IMPERATO: I think so, Judge, yes.

21 (Discussion off the record.)

22 THE COURT: But the count is just the terrorism
23 count.

24 MR. IMPERATO: The other acts are going to come
25 in, though, under relevant conduct.

1 THE COURT: What?

2 MR. IMPERATO: Judge, with everything that's
3 going on right now with him, I don't want to change the
4 facts. This has been how it's been for weeks.

02:28:48 5 THE COURT: It's just I don't want to belabor
6 stuff that --

7 MR. IMPERATO: I'll go over it briefly. But at
8 this point, anything that I change -- I don't know. I
9 would just like to leave it the way it is at this point.

02:29:12 10 In fact, Judge --

11 THE COURT: You make circuits, not circuitry.

12 MR. IMPERATO: You know, this is the same plea
13 agreement that we provided him two weeks ago; and I know
14 Mr. Adler has gone over there a ton.

02:29:24 15 MR. ADLER: We're on the last page. We're on the
16 last page.

17 MR. IMPERATO: Okay. If he is not going to do
18 it --

19 (Recess from 2:29 p.m. to 2:55 p.m.)

02:55:16 20 THE COURT: Thank you. Please be seated.

21 Mr. Adler, has the interpreter been sworn at some
22 point?

23 THE INTERPRETER: No, Judge, not yet.

24 THE COURT: Do you solemnly swear that you will
02:55:44 25 translate from Arabic -- is that what?

1 THE INTERPRETER: Yes.

2 THE COURT: -- Arabic into English and English
3 into Arabic the proceedings faithfully and not embellish
4 them? You can't necessarily do it literally.

02:56:00 5 THE INTERPRETER: Yes, I do, Judge.

6 THE COURT: Thank you.

7 Mr. Hardan, would you raise your right hand.

8 THE DEFENDANT: (Complying.)

9 THE COURT: Do you solemnly swear the testimony
02:56:12 10 that you give will be the truth, the whole truth and
11 nothing but the truth?

12 THE DEFENDANT: (Speaking English) Yes, Your
13 Honor.

14 THE COURT: All right. You can put your hand
02:56:22 15 down.

16 Tell me your full name, please, sir.

17 THE DEFENDANT: (Speaking English) Omar Fara
18 Saeed Al Hardan.

19 THE COURT: And when you use your last name, is
02:56:32 20 it Hardan or Al Hardan?

21 THE DEFENDANT: (Speaking English) Al Hardan,
22 Your Honor. Al Hardan.

23 THE COURT: Both words.

24 MR. ADLER: Both words, Your Honor.

02:56:43 25 THE COURT: It's kind of like "Ad-ler."

1 How old are you, please, sir?

2 THE DEFENDANT: (Speaking English) 24.

3 THE COURT: How many years of education have you
4 had?

02:56:53 5 THE DEFENDANT: (Speaking English) 11.

6 THE COURT: Where did you get that education?

7 THE DEFENDANT: (Speaking English) In Jordan.

8 THE COURT: No education since you have been
9 here?

02:57:10 10 THE DEFENDANT: (Speaking through interpreter) I
11 tried to study the GED, but I did not finish.

12 THE COURT: Of what country are you a citizen?

13 THE DEFENDANT: (Speaking English) Palestine.

14 THE COURT: Are you now or have you recently been
02:57:37 15 under the care of a doctor or a psychologist?

16 THE DEFENDANT: (Speaking through interpreter)
17 You know, I follow-up with the doctor. Sometimes I visit
18 the brain doctor or the mental.

19 THE COURT: Yes. You can use the microphone,
02:58:07 20 ma'am.

21 THE DEFENDANT: (Speaking through interpreter)
22 The psychiatrist.

23 MR. ADLER: Speak into the microphone.

24 THE COURT: Get right up to it. It doesn't work
02:58:12 25 unless you are like Shania Twain talking right into it.

1 THE INTERPRETER: Yes.

2 MR. ADLER: Repeat his answer.

3 THE COURT: So he has, what, seen a psychiatrist?

4 THE DEFENDANT: (Speaking through interpreter)

02:58:25 5 Yes.

6 THE COURT: Did he prescribe any medicine?

7 THE DEFENDANT: (Speaking through interpreter)

8 Yes. He gave me. Yes.

9 THE COURT: Are you still using that medicine?

02:58:42 10 THE DEFENDANT: (Speaking through interpreter)

11 No. I stopped it.

12 THE COURT: How long ago, roughly?

13 THE DEFENDANT: (Speaking through interpreter)

14 From three weeks to four weeks.

02:58:59 15 THE COURT: Before you were arrested were you
16 using drugs or alcohol?

17 THE DEFENDANT: (Speaking through interpreter)

18 No.

19 THE COURT: How do you feel today?

02:59:10 20 THE DEFENDANT: (Speaking through interpreter)

21 Good.

22 THE COURT: Have you had an opportunity to
23 discuss this case with Mr. Adler?

24 THE DEFENDANT: (Speaking English) Yes, Your
02:59:28 25 Honor.

1 THE COURT: And have you had plenty of time to
2 ask him questions and get his answers?

3 THE DEFENDANT: (Speaking English) Yes, Your
4 Honor.

02:59:37 5 THE COURT: Are you happy with the work that he
6 has done for you?

7 THE DEFENDANT: (Speaking English) Yes, Your
8 Honor.

9 THE COURT: How do you plead to Count 1,
02:59:59 10 attempting to support a foreign terrorist organization?

11 THE DEFENDANT: (Speaking English) Guilty, Your
12 Honor.

13 THE COURT: Mr. Al Hardan, you have a right to a
14 trial by jury on these charges. A jury would be 12 people
03:00:25 15 drawn from the people of this and the surrounding 12
16 counties. At that trial you would be considered innocent.
17 You would never have to prove that you are innocent. The
18 government would have to prove that you did beyond a
19 reasonable doubt. The government would have to prove it
03:00:53 20 by bringing witnesses into court to testify in front of
21 you about what you have done.

22 At that trial Mr. Adler could object to the
23 government's evidence, trying to block it. He could ask
24 questions for your side of the story of the government's
03:01:19 25 witnesses. He could bring other witnesses for your side

1 of the story, if there are any.

2 At the trial you could testify if you wanted to. If
3 you chose not to testify, no one could make you testify;
4 and no one could use it against you that you had not
5 testified.

6 If you continue to plead guilty there will be no
7 witnesses, no jury, no exhibits, no testimony. I will
8 find you guilty, and we will next go to the punishment.

9 As part of our discussion you will have to testify
03:02:00 10 against yourself because I am going to ask you questions
11 about what you did to assure myself that you are pleading
12 guilty because you really did it and for no other reason.

13 (Sotto voce discussion between counsel and the
14 defendant.)

03:02:25 15 MR. ADLER: Could you repeat that last part,
16 Judge?

17 THE COURT: Let me give some background.
18 Mr. Adler does not work for me. He doesn't work for the
19 justice department. I don't work for Mr. Adler, and I
03:02:41 20 don't work for the justice department. Judges in America
21 come from an entirely separate branch of government from
22 the president and all that stuff.

23 And so, I don't know everything they know; but I have
24 to be able to tell the American people that I have talked
03:03:05 25 to you about what you did and I am convinced that you are

1 pleading guilty because you did it, not because somebody
2 promised you something or anything like that.

3 Do you understand that?

4 THE DEFENDANT: (Speaking English) Yes, Your
03:03:29 Honor.

6 THE COURT: The elements of Count 1 are that you
7 knowingly attempted to support a foreign terrorist
8 organization.

9 (Sotto voce discussion between counsel and the
03:04:56 defendant.)

11 MR. ADLER: So, Judge, Mr. Al Hardan and I were
12 just discussing element B. The second part is the only
13 part that applies.

14 THE COURT: I haven't gotten there yet. You are
03:05:19 always ahead of me. All right.

16 And that you knew that that group was committing
17 terrorism or had done it recently.

18 THE DEFENDANT: (Speaking through interpreter)
19 Will you please repeat, Judge, the last sentence.

03:05:48 20 THE COURT: Mr. Al Hardan, the second element is
21 that you knew the group was committing or had committed
22 foreign terrorism reasonably recently.

23 THE DEFENDANT: (Speaking through interpreter)
24 Is it they are doing these operations right now you mean?

03:06:28 25 THE COURT: Or recently.

1 THE DEFENDANT: (Speaking through interpreter)

2 How do I know and I'm in prison if they are doing or not
3 doing?

4 THE COURT: No. Back in 2013 or '14?

03:06:51 5 MR. IMPERATO: Back when he was doing this, yes,
6 Judge. Back in 2014.

7 MR. ADLER: I think I can qualify it. If you can
8 ask the question again about the recentness of the
9 activity.

03:07:01 10 THE COURT: Yeah. So, no, he has been eating bad
11 food here recently.

12 So, the question is: Back when you were visiting with
13 the man with the AK-47 and buying the electronic
14 components, you knew then that ISIS and the ANF were
03:07:32 15 blowing up things, beheading people, that sort of thing?

16 (Sotto voce discussion between counsel and the
17 defendant.)

18 MR. ADLER: Mr. Al Hardan wasn't certain of the
19 acronym that you had used, Judge.

03:08:00 20 MR. IMPERATO: It's Al-Nusrah, Judge, Al-Nusrah
21 Front.

22 THE DEFENDANT: (Speaking through interpreter)
23 Judge, your question is for Al-Nusrah Front and ISIS at
24 the same time?

03:08:39 25 THE COURT: Louder.

1 MR. ADLER: Judge, I think the charge is ISIS
2 actually, not the Al-Nusrah Front. So I think that's what
3 is throwing Mr. Al Hardan off a little bit. He knew that
4 ISIS had recently been engaged in terrorist-related
5 activity.

03:08:55

6 (addressing defendant) Is that right?

7 THE DEFENDANT: (Nodding head.)

8 THE COURT: All right. Yes. There is an
9 allegation that they cooperated. So, okay.

03:09:12

10 So you knew what the Islamic state -- is that what
11 that stands for, the Al-Nusrah, is that it?

12 MR. IMPERATO: Yes.

13 THE COURT: -- was in the business of terrorism?

14 THE DEFENDANT: (Speaking through interpreter)

03:09:40

15 What was the question, Your Honor?

16 MR. IMPERATO: Judge, you are just advising him
17 of the elements at this time. You are not asking him to
18 comment on the elements. You are advising him of the
19 elements.

03:09:55

20 THE COURT: Yeah. I'm just telling him what the
21 parts are.

22 MR. IMPERATO: These are the elements. Do you
23 understand?

24 THE DEFENDANT: (Speaking through interpreter)

03:10:10

25 Yes. Yes, Judge.

1 THE COURT: And the third one is that what you
2 did was at least part within the United States.

3 THE DEFENDANT: (Speaking through interpreter)
4 You know the informer, you know, was introduced to me.

03:10:39 5 THE COURT: What?

6 MR. IMPERATO: He is talking about facts, Judge.
7 Again, he is advising you of the elements and if you
8 understand them.

9 THE COURT: In the abstract, but he won't
03:10:50 10 understand that.

11 (Sotto voce discussion between counsel and the
12 defendant.)

13 THE DEFENDANT: (Speaking English) Yes, Your
14 Honor.

03:11:12 15 THE COURT: All right. And you are not accused
16 of having committed terrorism but only having tried to;
17 and that means you meant to do it, you were working
18 towards doing it and you took steps but you didn't finish.

19 (Sotto voce discussion between counsel and the
03:11:49 20 defendant.)

21 THE DEFENDANT: (Speaking through interpreter)
22 Finished doing what, Your Honor?

23 THE COURT: Terrorism.

24 THE DEFENDANT: (Speaking through interpreter) I
03:12:05 25 did not understand.

1 THE COURT: The idea is that you practiced with
2 the assault rifle for the purpose of killing the enemies
3 of Islam, but you never killed any enemies of Islam with a
4 rifle. You just practiced doing it so you would be able
5 to do it when the time came.

6 MR. ADLER: Judge, I think the way he might
7 understand it better would be that the charge is that he
8 attempted to provide material support to the organization
9 but that he never actually provided material support to
10 the organization.

11 THE COURT: Well, does he know what that means?
12 Did you attempt to furnish materials to this terrorist
13 organization?

14 (Sotto voce discussion between counsel and the
15 defendant.)

16 MR. ADLER: Just one second, Judge.

17 (Sotto voce discussion between counsel and the
18 defendant.)

19 THE DEFENDANT: (Speaking English) Your Honor, I
20 attempted to provide material support to the Islamic
21 state.

22 THE COURT: Thank you. And you only attempted
23 to?

24 THE DEFENDANT: (Speaking English) Attempted,
25 yes.

1 THE COURT: Now, the maximum penalty -- I'm not
2 saying this is what I'm going to give you -- that the
3 statute would allow on your plea of guilty is for you to
4 be imprisoned for 20 years, fined \$250,000 and supervised
5 release with up to your -- up to life and there is a \$100
6 tax.

7 Do you have any question about the punishment?

8 (Sotto voce discussion between counsel, the defendant
9 and interpreter.)

03:16:25 10 THE DEFENDANT: (Speaking through interpreter)
11 Judge, is this the maximum that you are going to give me
12 right now or it's not going to happen?

13 THE COURT: No. The law says I could go that
14 high. I have no idea, Mr. Al Hardan, what I'm going to do
03:16:45 15 for a long time. We'll all get together again and
16 Mr. Adler will talk and Mr. Imperato will talk and we'll
17 discuss it and then I'll rule. That's all.

18 (Sotto voce discussion between counsel, the defendant
19 and the interpreter.)

03:17:04 20 THE DEFENDANT: (Speaking English) Yes, I
21 understand, Your Honor.

22 THE COURT: Has anybody threatened you to get you
23 to plead guilty?

24 THE DEFENDANT: (Speaking English) No, Your
03:17:32 25 Honor.

1 THE COURT: All right. I understand that you and
2 the government came to an agreement, and the agreement is
3 that you'll plead guilty to Count 1.

4 You will give up your right to appeal unless, frankly,
5 I go crazy, but I go above the statutory maximum or I
6 upwardly depart from the guidelines. That's kind of mumbo
7 jumbo, but it means if I go really high in your sentence.

8 And you give up your right now and forever to attack
9 the judgment collaterally.

03:18:12 10 In exchange, the United States agrees not to recommend
11 any security level prison or a specific geographic place
12 or seek a fine or collect the special assessment and it
13 agrees that you get two or three points off in calculating
14 the sentence.

03:18:42 15 And they will dismiss all the other charges here and
16 everywhere forever.

17 Does that sound like your agreement?

18 THE DEFENDANT: (Speaking English) Yes, Your
19 Honor.

03:18:57 20 THE COURT: All right. Has it been signed?

21 MR. ADLER: Not yet, Your Honor.

22 THE COURT: All right.

23 (Sotto voce discussion between counsel and the
24 defendant.)

03:19:25 25 MR. ADLER: Judge, I just want to point out there

1 were two paragraphs in the prior hearing the Court had
2 talked about lining out.

3 THE COURT: I'm getting ready to do that.

4 MR. ADLER: I just wanted to make sure.

03:19:39 5 (Sotto voce discussion between counsel and the
6 defendant.)

7 MR. ADLER: Judge, would it be possible for you
8 to repeat the portion about the government dismissing
9 counts? He is talking about paragraph nine.

03:20:42 10 THE COURT: Paragraph nine will disappear.

11 MR. ADLER: And even though it disappears, the
12 agreement with the government -- he wants to make sure the
13 agreement is with the government that they will dismiss
14 the other charges against him.

03:20:57 15 THE COURT: Yes.

16 MR. ADLER: And not bring other charges against
17 him.

18 THE COURT: They can't.

19 MR. ADLER: Thank you, Judge.

03:21:07 20 (Sotto voce discussion between counsel and the
21 defendant.)

22 MR. IMPERATO: Your Honor, the plea agreement has
23 been signed by all the parties.

24 THE COURT: Thank you.

03:21:59 25 CASE MANAGER: Thank you.

1 MR. ADLER: Judge, just for the record, the other
2 paragraph we had discussed removing was at -- it's not
3 actually numbered, but it's on page two after paragraph
4 four. There is a short paragraph. I think the Court had
5 indicated --

6 THE COURT: Yes. We'll make you a copy of the
7 final signed version so you can see exactly what we're
8 talking about.

9 MR. IMPERATO: Judge, just for the record, the
10 government doesn't agree to that being crossed out. The
11 Court has decided to do that on its own. I just want to
12 make that clear.

13 THE COURT: I understand.

14 MR. IMPERATO: Thank you.

15 THE COURT: But the Court took an independent
16 oath to uphold the Constitution and that paragraph, this
17 one, is just mean. And it's not the province of this to
18 take care of an administrative proceeding which will be an
19 -- even immigration won't mess that up. But the other one
20 is just illegal.

21 Mr. Al Hardan, the things that are problems with the
22 Court did not originate with your particular prosecutor.
23 The people in Washington tried to trick me. Their batting
24 average is not very good.

25 All right. It's been signed with corrections.

1 MR. ADLER: Thank you, Judge.

2 THE COURT: Other than that agreement, has
3 anybody promised you anything?

4 THE DEFENDANT: (Speaking English) No, Your
03:24:19 5 Honor.

6 THE COURT: All right. There is talk in that
7 agreement about the guidelines, and I get to decide what
8 the guideline is. Is that clear?

9 THE DEFENDANT: (Speaking through interpreter)

03:24:42 10 Can you go above the guideline?

11 THE COURT: No. The guidelines require somebody
12 to calculate what they are. And so, I read the book about
13 the guidelines. I do the arithmetic. I discuss it with
14 the lawyers, and I pick a number because I think that's
03:25:03 15 correct. You are stuck with that.

16 MR. ADLER: Do you understand?

17 THE DEFENDANT: (Speaking English) I understand,
18 Your Honor.

19 THE COURT: Do you understand you can't change
03:25:10 20 your mind after right now?

21 THE DEFENDANT: (Speaking English) Yes, Your
22 Honor.

23 THE COURT: Kind of like getting married.
24 Probably not that bad.

03:25:30 25 All right. Now, in the plea agreement there is talk

1 about you meeting people and talking about going to
2 Central Asia and the Middle East to join ISIS; and you
3 told the guy you were getting the rifle lessons from that
4 that is what you wanted to do. And did you swear loyalty
5 to ISIS to that guy?

03:26:02 6 THE DEFENDANT: (Speaking English) So, Your
7 Honor, I did swear to the informant. He had request to
8 pledge allegiance to ISIS, but I didn't swear to him. So
9 what they mentioned is true, but it's different than --

03:26:41 10 THE COURT: You pledged? You pledged?

11 THE DEFENDANT: (Speaking English) Yeah. It's
12 different.

13 THE INTERPRETER: Different than the official
14 pledge.

03:26:48 15 THE DEFENDANT: (Speaking English) It's
16 different.

17 (Sotto voce discussion between counsel and the
18 defendant.)

19 THE COURT: Did you mean those things you posted
03:27:00 20 on Twitter and other stuff?

21 THE DEFENDANT: (Speaking through interpreter)
22 You know, intention to what, Your Honor?

23 THE COURT: Did you mean to travel overseas and
24 fight with ISIS?

03:27:37 25 THE DEFENDANT: (Speaking through interpreter)

1 Only in the article that I wrote or the --

2 THE COURT: Well, in conversations that the
3 government recorded, for instance.

4 MR. IMPERATO: Judge, do you want me to read the
03:27:51 5 factual basis and ask him if he agrees to it?

6 THE COURT: He has already signed it.

7 MR. IMPERATO: You are asking him specific
8 questions. Maybe it would be helpful if I read it to him.

9 THE COURT: There are a couple of pages in the
03:28:07 10 plea agreement about what you did. It talks about things
11 that were in the closet at your house and things that you
12 posted.

13 THE DEFENDANT: (Speaking through interpreter) I
14 just wrote it, but I didn't do anything.

03:28:41 15 MR. IMPERATO: He is talking about Twitter,
16 Judge. I just showed him the statements that he made on
17 Twitter. He said he just wrote them.

18 MR. ADLER: But he didn't act on them.

19 THE COURT: He didn't act on them. But you were
03:28:52 20 serious?

21 (Sotto voce discussion between counsel and the
22 defendant.)

23 THE DEFENDANT: (Speaking English) Yes, Your
24 Honor. I was serious.

03:29:23 25 THE COURT: And your education in circuits and

1 cell phones and things was for the purpose of using them
2 in terror?

3 (Sotto voce discussion between counsel and the
4 defendant.)

03:29:45 5 THE DEFENDANT: (Speaking English) No, Your
6 Honor.

7 THE COURT: What were you going to do with them?

8 THE DEFENDANT: (Speaking English) I tried to
9 study in college to be a technician of electronics, but I
03:29:55 10 couldn't because it's expensive. So I was talking with
11 the informant about -- when he asked me what you love to
12 do in the life or something, I mentioned to him a couple
13 of things, including electronics and things.

14 He said, just show to me what you have.

03:30:11 15 And I brought him the components that I buy from eBay,
16 but I don't have experience to do anything with it. I
17 just put it in house -- in my house because it's --

18 THE COURT: I understand you didn't actually use
19 them; but can you tell me why you would have, whatever it
03:30:28 20 was, 12 dead cell phones or unactivated ones?

21 THE DEFENDANT: (Speaking English) It's 12 or 6.

22 MR. ADLER: I don't remember the exact number.

23 THE DEFENDANT: (Speaking English) They found
24 it, that's true, Your Honor. All of them it doesn't
03:30:43 25 belong to me. Some of them for my dad and for two

1 brothers. One of them passed away. So my dad was putting
2 them as memory for them.

3 THE COURT: I hope when I go you guys will keep
4 something besides my cell phone as a memory.

03:31:14 5 And did you have compact disks with the story of how
6 to make detonation circuits?

7 THE DEFENDANT: (Speaking English) I seen the
8 video on internet how to do that, yeah. And the CDs that
9 they founded, it's only to show you how to learn in
03:31:36 10 general about electronics. I ordered it from eBay.

11 THE COURT: And have you read the comments you
12 made to your family?

13 THE DEFENDANT: (Speaking English) Yes, Your
14 Honor. About these things I was in -- I was mad in my
03:32:13 15 house with my family about something. So I was very mad.
16 So I started saying this when I was talking to my family
17 or to myself.

18 THE COURT: Is this the case with the models?

19 MR. IMPERATO: Yes, Judge.

03:32:30 20 MR. ADLER: Yes, Your Honor.

21 THE COURT: Have you seen the video of you
22 blowing up the models?

23 (Sotto voce discussion between counsel and the
24 defendant.)

03:33:04 25 THE DEFENDANT: (Speaking English) Yeah. I

1 didn't see this, Your Honor; but they said that we did it,
2 yeah, me and my family we did it in some kind of party or
3 something and it happened.

4 THE COURT: I know that there were other people
03:33:20 there, as I recall, your father and a brother. I have
5 only seen it once. That was almost a year ago.
6

7 (Sotto voce discussion between counsel and the
8 defendant.)

9 THE COURT: All right. I find that there are
03:33:58 more than sufficient facts to support your plea of guilty.
10 I find you guilty as charged in Count 1.
11

12 The sentencing is set for January 17th, 2017 at 1:30
13 in this room.

14 MR. IMPERATO: Judge, one more thing. Could you
03:34:20 advise the defendant -- I don't think we have talked about
15 it -- about the immigration consequences.
16

17 THE COURT: Sure. I mean, as you know,
18 immigration will review your case, your application for
19 naturalization and will decide what to do with it. And
03:34:42 20 they may grant it. They may deny it. And if they deny
21 it, then since you will have been convicted of a federal
22 felony, a serious crime, that they will probably deport
23 you; but that doesn't have to be the case.

24 THE DEFENDANT: (Speaking English) But, Your
03:34:59 25 Honor, do you think they can deport me to Iraq?

1 THE COURT: I have -- you are not an Iraqi,
2 right?

3 THE DEFENDANT: (Speaking English) No. But I
4 came through Iraq. So --

03:35:14 5 THE COURT: In the case of regular processes, you
6 must be deported to anyplace you are willing to go, plus
7 the place has to be willing to take you or where you came
8 from in the sense of what is your native country. It,
9 too, sometimes doesn't want people.

03:35:39 10 But there is simply no way for me to tell, both
11 because it's either a confused situation and it's a
12 government agency and they try their best but -- I don't
13 know. But we're not going to air drop you into the middle
14 of someplace where you are going to get killed when you
03:36:01 15 land. We don't do it that way.

16 (Sotto voce discussion between counsel and the
17 defendant.)

18 THE DEFENDANT: (Speaking English) And I would
19 like to tell you something, Your Honor, please, if you can
03:36:10 20 grant me just one second --

21 THE COURT: Sure.

22 THE DEFENDANT: -- about the mall matter. And
23 are you aware like -- do you believe what they said that I
24 planned to blow up mall or something, what they said in
03:36:24 25 the newspaper? Do you believe that, Your Honor? I just

1 want to make sure.

2 THE COURT: It would be impolitic of me to say
3 how much of newspapers I believe; but I don't make
4 decisions based on newspaper reports, based on secondhand
5 gossip from people. I make the government agents do their
6 job by proving to me in admissible evidence, hard data,
7 about who did what.

8 MR. ADLER: And, Judge, I think he is --

9 THE COURT: It wasn't you who said The Galleria
10 anyway. It was the guy who was trying to --

11 MR. ADLER: Mr. Al Hardan is still occasionally
12 being harassed in the FDC because of The Chronicle's
13 inaccurate reporting on this issue. So I think that's why
14 he is concerned about it.

15 THE COURT: Well, I don't know that the justice
16 department didn't issue a press release that said that.

17 MR. IMPERATO: No, we didn't, Judge.

18 THE COURT: Not you.

19 MR. ADLER: They issued a correction, Judge, that
20 doesn't seem to have gotten to The Chronicle as well as
21 the initial testimony.

22 MR. IMPERATO: Judge, it doesn't matter. The
23 defendant admitted to the facts. He was making remote
24 detonations or bombs for Iraq.

25 THE DEFENDANT: (Speaking English) Bombs? No,

1 Your Honor, I didn't do any bombs to support any people.

2 MR. IMPERATO: You were constructing them to do
3 that.

4 THE COURT: Mr. Imperato --

03:37:48 5 MR. IMPERATO: I'm sorry, Judge. He -- I'm
6 sitting here, and he is minimizing.

7 THE COURT: I understand the source of the
8 statement about The Galleria and it wasn't you. That's
9 what the recording says. And I am going to rely on the
03:38:07 10 recording. I don't rely on newspapers or Twitter, for
11 that matter, to get my data unless you swear, of course,
12 that you really said it and admit it. But I don't know --

13 THE DEFENDANT: (Speaking English) But, Your
14 Honor, I'm sorry. You know that the idea is not my idea.
03:38:26 15 It was a government idea. You know that, Your Honor?

16 THE COURT: I understand who originated it. It
17 might just have been that guy's idea and nobody else's
18 idea but it was his, not yours.

19 (Sotto voce discussion between counsel, the defendant
03:38:46 20 and interpreter.)

21 MR. ADLER: That's all we have, Your Honor.

22 THE COURT: Did you ever make anything out of a
23 circuit or out of the circuit boards and dead cell phones?

24 THE DEFENDANT: (Speaking English) I don't have
03:38:58 25 any experience to do these things, Your Honor.

1 THE COURT: That's not my question. Did you ever
2 make anything out of them?

3 THE DEFENDANT: (Speaking English) No, no, Your
4 Honor.

03:39:04 5 THE COURT: And did your shopping list come from
6 a website that you looked at?

7 THE DEFENDANT: (Speaking English) I bought them
8 through eBay.com.

9 THE COURT: I know, but how did you know even to
03:39:24 10 ask for a light sensor or whatever that was?

11 THE DEFENDANT: (Speaking English) Your Honor, I
12 buy these things before I met the informant. So --

13 THE COURT: I understand that. My question is:
14 How would you have known, without looking on the internet,
03:39:37 15 to find out what you need for a remote detonation? I
16 don't even know what a light sensor is, but you bought one
17 of them.

18 THE DEFENDANT: (Speaking English) Yes, Your
19 Honor.

03:39:48 20 THE COURT: How did you know to buy it?

21 THE DEFENDANT: (addressing interpreter) I don't
22 understand the question, please.

23 THE COURT: Before you buy something on eBay, you
24 know what you want to buy. There are millions of
03:40:07 25 electronic components. How would you have known enough to

1 pick a light sensor out of all the things for sale on eBay
2 to order?

3 THE DEFENDANT: (Speaking English) Yes. I have
4 seen a couple of videos because, as I told Your Honor, I
5 was --

6 THE COURT: I understand. But were they the
7 videos you saw about making bombs or remote detonation
8 devices?

9 THE DEFENDANT: (Speaking English) But I didn't
03:40:36 10 see that video -- like, I didn't choose these components
11 from that video, no. I didn't choose these components
12 from the video that give me instruction how to do bombs.

13 THE COURT: No. How to do detonations.

14 (Sotto voce discussion between counsel, the defendant
03:40:46 15 and the interpreter.)

16 THE DEFENDANT: (Speaking through interpreter)
17 What was the question, Your Honor?

18 THE COURT: Say that again.

19 THE INTERPRETER: What was the question, please?

03:41:03 20 THE COURT: You watched videos of how to set off
21 things. It can be a coffeepot or a bomb. And that's how
22 you knew what to buy on eBay because they would allow you
23 to turn on a coffeepot remotely.

24 THE DEFENDANT: (Speaking English) So, Your
03:41:29 25 Honor, your question is why I pick these items?

1 THE COURT: Yes.

2 THE DEFENDANT: (Speaking English) I seen a
3 couple of videos how to do water sensor. So water --
4 water sensor, when the water goes to level something, it
5 will give some flash, some flashing or sound. So I
6 interested to do this. I would love to know how to do
7 these things. So I got -- I download this video about
8 water level sensor. He put instruction down as comments
9 how to -- what to buy, what exactly to buy to do the water
03:41:40 10 sensor level. That's why I bought it.

11 THE COURT: You collected cell phones and all the
12 circuit information and all the parts you did to do a
13 water sensor?

14 THE DEFENDANT: (Speaking English) So your
03:42:15 15 question is all what I have, all what I bought only
16 because --

17 THE COURT: No. Only those things you had stored
18 in the closet.

19 THE DEFENDANT: (Speaking English) It was many
03:42:27 20 things, Your Honor. It was something for cars, lights for
21 cars. I remember some of them I bought electronics,
22 notebooks, pens, rings besides a lot of things they found,
23 Your Honor.

24 THE COURT: There are a lot of things.

03:42:43 25 THE DEFENDANT: (Speaking English) Yeah.

1 THE COURT: And were any of those things things
2 that you learned about that you would need to turn
3 something on remotely?

4 THE DEFENDANT: (Speaking English) I bought a
03:43:05 5 very small remote with a receiver. I just bought it. But
6 I don't know how to connect it or how to activate it. But
7 my intention was to do something with the cars or garage
8 or something.

9 THE COURT: How did you set off the toy
03:43:21 10 explosives? I don't remember. With a match?

11 MR. ADLER: I think so. With firecrackers.

12 THE DEFENDANT: (Speaking through interpreter)
13 What is the question, Your Honor?

14 THE COURT: When he was blowing up model planes,
03:43:35 15 I don't remember how he set them off.

16 THE DEFENDANT: (Speaking English) Yes, Your
17 Honor. My brother he has -- what you call that?

18 (Sotto voce discussion between counsel and the
19 defendant.)

03:43:46 20 THE COURT: A lighter?

21 MR. ADLER: It was a firecracker lit with a match
22 or a lighter, Your Honor.

23 THE DEFENDANT: (Speaking English) My brother --
24 yeah. So my brother has them and I have small car and me
03:43:55 25 and my father and brother was making fun. So we put the

1 thing inside the car and we just --

2 THE COURT: You blew up an airplane, too, didn't
3 you?

4 MR. ADLER: It was just a car.

03:44:08 5 MR. IMPERATO: It was an airplane. Judge, there
6 is so much more. I mean, this is also --

7 THE COURT: Yes. All right. So next you have
8 the opportunity to talk to a probation officer with
9 Mr. Adler, if you want. I believe it's in your best
03:44:26 10 interest because the probation officer is a person who
11 advises me and everybody else -- but they work for me.
12 Not for him. They don't work for him -- about how to
13 calculate the sentence. And it has to be based on
14 information we know. So you are a source of information
03:44:46 15 about yourself that might turn out to be useful to you.

16 All right. Mr. Adler, anything else?

17 MR. ADLER: Nothing, Your Honor. Thank you.

18 THE COURT: Mr. Imperato?

19 MR. IMPERATO: Not today.

03:44:58 20 THE COURT: Mr. McIntyre?

21 MR. MCINTYRE: No, Your Honor.

22 THE COURT: Anything else?

23 MR. MCINTYRE: No, Your Honor.

24 THE COURT: All right. Thank you.

25 *(Proceedings concluded at 3:45 p.m.)*

1 Date: October 24, 2016

2 **COURT REPORTER'S CERTIFICATE**

3 I, Laura Wells, certify that the foregoing is a
4 correct transcript from the record of proceedings in the
5 above-entitled matter.

6

7 _____ /s/ Laura Wells _____

8 Laura Wells, CRR, RMR

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